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June 9, 2000

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Dear XXXXXX:

I am writing in reply to your letter of March 29, 2000 asking for this office's position on the question of whether the Motor Vehicle Sales Finance Act would prohibit an installment seller from deferring the first payment due on an installment contract for in excess of one year. In particular, you reference a Mitsubishi Motors Credit of America, Inc. installment sale program in which interest accrued commencing on January 1, 2000, but the first payment was deferred until February 1, 2001. You note that Michigan dealers were excluded from this program "based on prior understanding of Michigan law."

Section 12(f) of the Motor Vehicle Sales Finance Act (MVSFA) governs payments under installment sale contracts as follows.

**"(f) Every installment sale contract shall provide for *weekly, semi-monthly or monthly payment of the time balance in substantially equal periods and in substantially equal amounts*. Provided, That this subsection shall not apply to installment sale contracts made between an installment seller and an installment buyer who is an employee of such installment seller, nor shall it prohibit installment sales contracts that extend the time for making installment payments for a period of not to exceed 3 months for installment buyers engaged in seasonal occupations: Provided further, That this subsection shall not preclude the exceptional installment sale contract provided for in section 22 of this act."** (MCL 492.112(f), emphasis added.)

In interpreting the Section 12(f) requirement that an installment contract "provide for weekly, semi-monthly or monthly payment of the time balance in substantially equal periods and in substantially equal amounts," I concur with the position expressed previously by the Division of Financial Institutions that the requirement applies to the period commencing with the due date of the first payment. Thus, a decision by a dealer to delay the due date of the first payment would not be in contravention of the requirements of Section 12(f), so long as the contractual payment schedule from the time of the first payment complies with the statute.

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Deferral of the first payment under an installment contract does not preclude accrual of interest from the time the contract is consummated, or, in this case, such later date as agreed to by the installment seller and installment buyer. If such a contract provides for interest to accrue on a simple interest basis, interest would accrue from the date of consummation or other contractually established date. Prepayment of a contract that provides for "add-on" interest and defers the first payment would require that the holder take into account the period of first payment deferral in calculating any rebate of unearned interest to the car buyer.

If you have further questions about this, contact Examination Division director Ann Gaultney at (517)373-3470.

Very truly yours,

/ss/

Frank M. Fitzgerald  
Commissioner

Cc: A. Gaultney  
G. Mielock  
P. Bryson